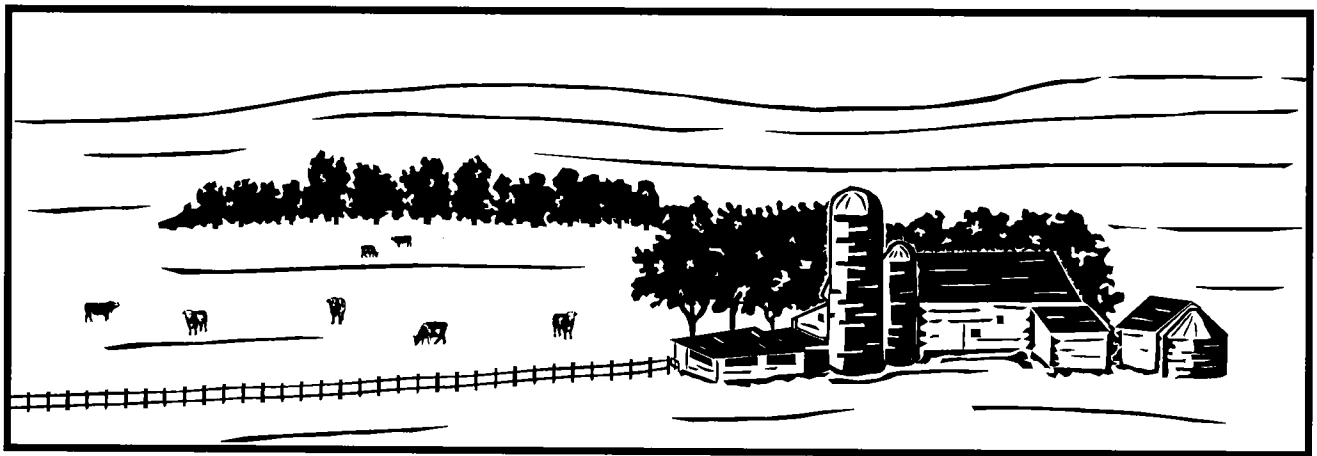


The California Land Conservation (Williamson) Act



1993 to 1995 Status Report

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Dear Reader:

In 1994, California's agricultural production value for the first time topped \$20 billion. At the same time, the state's population continues to grow by 500,000 people annually. As the most populous and agriculturally productive state in the nation, California faces difficult challenges in making room for its new residents and at the same time preserving the phenomenal productivity of its agricultural industry.

For over 30 years, California's Land Conservation Act--commonly referred to as the Williamson Act after its author John Williamson--has protected the state's vital farmland and open space from premature development. The program works by allowing private landowners to voluntarily restrict the uses of their land to farming and open space through minimum ten-year contracts with local governments. Parcels restricted by these contracts are subject to lower property tax assessments.

Nearly 16 million of the state's 30 million acres of farm and ranch land are currently protected under the Williamson Act. This level of participation has been maintained for over ten years, pointing to the continuing popularity and effectiveness of the program. Particularly in counties such as Kern, Fresno, and Tulare--the top three agricultural counties in the Nation in terms of production value--the objectives of the Williamson Act are more important than ever. High levels of program participation in these counties have preserved vital agricultural lands in the midst of phenomenal growth and development in the Central Valley and elsewhere.

Interest in the Williamson Act and land conservation has increased rapidly in recent years. In 1995, Governor Wilson appointed an advisory committee on the Williamson Act to investigate methods for investigating Williamson Act issues. Also in 1995, the passage of Senate Bill 275 (Statutes of 1995, Chapter 931) created the Agricultural Land Stewardship Program (ALSP) Fund, which will support the purchase of agricultural land conservation easements. In 1996, Governor Wilson, working in conjunction with the Department of Conservation secured Congressional support for inclusion of a national Farmland Protection Program (FPP) in the Federal Agricultural Improvement and Reform Act (Farm Bill). The FPP will provide matching funds for state programs such as the ALSP.

As we approach the new millennium, the conservation of farmland and open space will undoubtedly remain as a topic of indispensable concern. While other programs and tools will be useful in preserving California's agricultural resources, every indication points to the continuance of the Williamson Act as one of the state's principal policies in addressing this topic.

Sincerely,

Elin D. Miller
Director

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Executive Summary

The California Land Conservation (Williamson) Act of 1965 is the principal policy for the “preservation of a maximum amount of the limited supply of agricultural land” in the state (Government Code Section 51220). The Act creates an arrangement whereby private landowners voluntarily restrict their land to agriculture and compatible open-space uses under 10-year rolling term contracts with counties and cities. In return, restricted parcels are assessed for property tax purposes at a rate consistent with their actual use, rather than potential market value. Under the Open Space Subvention Act, local governments are partially compensated by the state for property tax revenues foregone as a result of participation in the program.

Local governments are responsible for the administration of contracts with landowners. The Department of Conservation is responsible for interpretation of the Williamson Act; research of related issues and policies; implementation assistance; certifying applications for state payment under the Open Space Subvention Act; and preparing the status report.

Enrollment Patterns

- ◆ As of March 1, 1995, about 15.9 million acres were enrolled under Williamson Act contract in 47 counties and 15 cities. This number represents over half of California’s total farmland and nearly one-third of all private land in the state.
- ◆ About one-third of the land enrolled under contract is classified as prime agricultural land.
- ◆ About 4.3 percent of the enrolled acreage is in the process of nonrenewal.
- ◆ Enrollment has been stable for over ten years, and should remain so at least into the near future.
- ◆ The number of acres newly enrolled has remained more stable than contract terminations over the last ten years.
- ◆ About 43 percent of the total enrolled acreage is concentrated in the San Joaquin Valley. While leading the state in new enrollments since 1993, the San Joaquin Valley saw a minor net decrease in enrollment of about 500 acres.
- ◆ The Bay & Central Coast region holds the second highest enrollment concentration, with about 20 percent of the total. The region experienced a net increase in enrollment of over 9,000 acres between 1993 and 1995.
- ◆ The Sacramento Valley holds the third largest enrollment concentration--about 16 percent of the total. The region saw the largest net decrease between 1993 and 1995--over 19,000 acres.
- ◆ The North Coast & Mountain region holds about 9 percent of the state’s total enrollment. Between 1993 and 1995 the region saw the largest net increase, with nearly 17,000 acres added.
- ◆ The Foothill & Sierra and South Coast & Desert regions each hold roughly a 5 percent concentration of the state’s Williamson Act land. The Foothill & Sierra region experienced a net increase of about 4,500 acres; the South Coast & Desert region saw a net decrease of about 9,000 acres between 1993 and 1995.

New Legislation

- ◆ *Assembly Bill 2663, Statutes of 1994, Chapter 1251*, clarified provisions relative to compatible uses and added language to the Open Space Subvention Act allowing the state to withhold unpaid cancellation fees from subventions.
- ◆ *Senate Bill 1534, Statutes of 1994, Chapter 1158*, made substantive changes to provisions regarding the public acquisition of Williamson Act land.
- ◆ *Senate Bill 275, Statutes of 1995, Chapter 931*, created the Agricultural Land Stewardship Program (ALSP) Fund to support the purchase of agricultural conservation easements.
- ◆ *The 1996 Federal Agricultural Improvement and Reform Act* established a national Farmland Protection Program (FPP) to support state agricultural easement programs.

Recent Legal Decisions

- ◆ *Stanislaus Audubon Society, Inc. v. County of Stanislaus*. The court found the county's conclusion that a proposed project would not induce development to be unsupported by the fact that lands surrounding the project were enrolled under Williamson Act contract.
- ◆ *Carter v. City of Porterville*. The court found that blanket protests by cities of Williamson Act contracts are invalid even if filed before the repeal of the contract protest provisions.
- ◆ *DeVita v. County of Napa*. The court upheld a Napa County initiative which requires General Plan amendments involving farmland conversion to be submitted for county voter approval.

Administrative Activities

- ◆ Department staff have provided technical and administrative support to the Williamson Act Advisory Committee, which was initiated by the Governor in late 1994.
- ◆ The Department has initiated the development of a computer database to increase the accuracy of Williamson Act enrollment information and enhance analytical capabilities.
- ◆ Continuing with the development of a comprehensive reference manual for the Williamson Act, the Department plans to complete the project by late 1996.
- ◆ The Department is engaged in several research projects involving the Williamson Act and land conservation issues. These include a survey of local Williamson Act administrative procedures, a study of alternatives to the minimum parcel size standards of the Williamson Act, and a study of the relationship between urban densities and agricultural land preservation. Featured in this report is an article presenting research on farmland protection programs in other states.
- ◆ The Department completed work on a California version of the Land Evaluation and Site Assessment (LESA) model. The LESA model is an innovative way to formally evaluate the character and relative quality of land for agricultural use. Senate Bill 850 (Statutes of 1993, Chapter 812) directs the Resources Agency to adopt the LESA model or similar methodology as part of the Guidelines to Implementation of the California Environmental Quality Act (CEQA).

Introduction

The California Land Conservation (Williamson) Act of 1965 is the state's principal policy for the preservation of agricultural and open-space land. It is a voluntary, locally administered program that provides a mechanism for local governments to protect farmland and open space in cooperation with owners of the land. Landowners enroll parcels under minimum 10-year contracts with local governments to restrict lands to agriculture and compatible open-space uses. In return, land is assessed for property taxes at a rate consistent with its actual use, rather than potential market value. The Act declares as its fundamental purposes (1) agricultural land preservation, (2) open space preservation, and (3) efficient urban growth patterns (Table 1).

The Williamson Act directs the Department of Conservation to prepare and submit to the Legislature a biennial report on the status of the program's implementation. The original requirement for an annual report was changed to a biennial report in 1993 to cut costs, and in recognition of the fact that enrolled acreage does not fluctuate significantly on an annual basis.

Brief History of the Program

Since World War II, California has experienced rapid expansion in virtually every category of growth: since 1940 the population of California has more than quadrupled, from seven million to over 30 million people; between 1963 and 1989 the Gross State Product increased from \$65.9 billion to \$697.3 billion; and since 1970, over five million new permits for residential construction have been authorized (Department of Finance 1992; Fay 1993).

These phenomenal rates of growth, while providing tremendous economic opportunities, increased pressures to convert agricultural land to urban uses. Adding impetus to this trend was the state's property tax system. Rapidly escalating property taxes presented an often prohibitive burden for farmers who wanted to keep their land in agriculture.

In 1963 the California Assembly formed an interim committee to generate a solution that would be acceptable to a variety of interests, including owners of agricultural land, local governments, and land developers

(Davies 1972). The legislation eventually produced by the committee focused on the implementation of restrictive use contracts between local governments and landowners. Assembly Bill 2117, authored by Assemblyman John Williamson, provided for contracts that would prevent development of enrolled parcels for a minimum of 10 years.

Proponents of the legislation felt that contractual restrictions on development should influence assessed land values to the point where they would level off (Snyder 1966). In practice, however, landowners, assessors, and local governments seemed unconvinced that restrictive contracts could provide a basis for lower tax assessments. In the two years following passage of the Williamson Act, only 200,000 acres were enrolled under contract in six counties.

The program might have remained small if not for the addition of Article 28 (now part of Article 13) to the state's Constitution. Article 13 declares the interest of the state in preserving open-space land and provides a constitutional basis for valuing property according to its actual use. The amendment had originated with groups interested in the preservation of open-space

Agricultural Land Preservation:

... the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources, and is necessary not only to the maintenance of the agricultural economy of the state, but also for the assurance of adequate, healthful and nutritious food for future residents of this state and nation.

Open Space Preservation:

... in a rapidly urbanizing society agricultural lands have a definite public value as open space, and the preservation in agricultural production of such lands ... constitutes an important physical, social, aesthetic, and economic asset to existing or pending urban or metropolitan developments.

Efficient Urban Growth Patterns:

... the discouragement of premature and unnecessary conversion of agricultural land to urban uses is a matter of public interest and will be of benefit to urban dwellers themselves in that it will discourage discontinuous urban development patterns which unnecessarily increase the costs of community services to community residents.

Table 1. Purposes of the Williamson Act (Government Code Section 51200).

land. Agricultural interests added their support after recognizing the importance of a constitutional backing for preferential tax assessments. Article 13 allows preferential assessments for recreational, scenic, and natural resource areas as well as areas devoted to production of food and fiber.

Supporters of the Williamson Act had hoped that financial assistance from the state to local governments would be part of the program. They believed financial support would provide a tangible incentive for local governments to initiate more contracts by partially replacing property tax revenues lost on enrolled land. State funding was provided in 1971 by the Open Space Subvention Act, which created a formula for allocating payments to local governments based on acreage enrolled in the program.

More than 30 years after its passage, the objectives of the Williamson Act have only increased in importance, and participation in the program remains strong.

As of March 1, 1995, about 15.9 million acres were enrolled under Williamson Act contract in 62 participating local jurisdictions (47 counties and 15 cities). Thus, more than half of the state's approximately 30 million agricultural acres are protected under the Williamson Act.

Background to How the Program Works

At the heart of the Williamson Act is the voluntary enrollment of land under restrictive use contracts between landowners and local governments. This feature creates a partnership between local governments, landowners, and the state for managing the program and designating the lands which should be protected. Contractual agreements ensure mutual benefits are realized both by private landowners and the public.

Agricultural Preserves

Agricultural preserves allow local jurisdictions to designate priority areas for farmland and open space conservation. The establishment of a preserve indicates the willingness of the jurisdiction to enroll parcels within the preserve under Williamson Act contract. Agricultural preserves must generally be at least 100 acres in size. Smaller preserves may be established if they are necessary due to the unique agricultural enterprises of the area in question.

Contract Enrollment

To be eligible for enrollment under contract, land must be within the boundaries of an agricultural preserve. Every contract must run for a minimum term of 10 years; most jurisdictions have adopted 10 years as a standard. On each anniversary date of the contract's execution, the term is automatically extended for another year unless nonrenewal has been initiated.

During the contract's regular term and nonrenewal period, use of the subject

property must adhere to standards of compatibility with agriculture. Principles of compatible use are outlined under the Williamson Act (Table 2). Each contract must either contain or reference a listing of the specific uses which are allowed.

Contract Termination

The preferred method of contract termination is through the nonrenewal process. Under this arrangement the automatic annual term extension is halted and the contract becomes void at the end of its term. The nonrenewal process may be initiated by either party to the contract. Local governments may initiate the nonrenewal process by removing land under contract from the boundaries of an agricultural preserve.

The Williamson Act also allows for the immediate cancellation of contractual restrictions under extraordinary circumstances and when specified conditions can be met. Only the landowner may initiate a request for cancellation. In granting

- 1. The use will not significantly compromise the long-term productive agricultural capability of the subject land.*
- 2. The use will not significantly displace or impair agricultural operations on the subject land or other contracted land. Uses that displace agricultural operations may be deemed compatible if they relate directly to the processing of commercial agricultural products on the subject land.*
- 3. The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.*

For lands defined as nonprime under the Williamson Act limited exceptions to the first two principles listed above may apply based on specific findings.

Table 2. Principles of Compatible Use (Government Code Section 51283.1, added by AB 2663, Statutes of 1994, Chapter 1251).

approval, local governments must find that the cancellation is either (1) consistent with the purposes of the Williamson Act, or (2) in the public interest.

Contract cancellation requires the payment of a fee equal to 12.5 percent of the full market value of the subject land. The market value is determined according to the proposed alternative use of the land. The fee can be waived or postponed only under very limited circumstances, and under the condition of findings which are more rigorous than those for cancellation alone. The fees are paid by the landowner to the local government which, in turn, pays the fees to the State Controller for deposit into the state's Soil Conservation and General Funds.

In addition to nonrenewal and cancellation, Williamson Act contracts become void when the subject property is acquired by an agency for public improvement. It is the policy of the state, however, to avoid locating public improvements in agricultural preserves. The Williamson Act specifies two conditions in which land may not be acquired for public improvement: (1) if the primary basis for the consideration of the location is the lower cost of land within an agricultural preserve, or (2) if the land in question is prime agricultural land enrolled under Williamson Act contract and there is other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.

For contracts initiated prior to January 1, 1991, incorporated cities had the option of filing a protest if the land for which the contract was executed was within one mile of the city boundary. If a valid protest was filed and the land in question is later annexed to the city, the contract may be

terminated at the option of the city. Due to legislative changes, cities no longer hold the option of protesting contract enrollments. Protests properly filed before 1991, however, are still valid.

Subvention Payments

The Open Space Subvention Act provides for the partial replacement of local property tax revenues foregone as a result of participation in the Williamson Act Program. Local governments receive annual subvention payments for eligible lands at a rate of \$5.00 per acre for prime land and \$1.00 per acre for nonprime land.

Program Administration

Participating local governments are responsible for the general administration of agricultural preserves and Williamson Act contracts. Each participating local government has developed its own specific rules for local program administration, including the basic procedures for processing requests to define agricultural preserves and initiate Williamson Act contracts.

The Williamson Act Program is administered at the state level by the Department of Conservation. Most of the basic administrative activities related to the program are conducted by the Department's Office of Land Conservation (OLC). Office of Land Conservation staff are responsible for the interpretation of the Williamson Act; conducting research of issues and policies related to the Act; providing implementation assistance; certifying applications for state payment under the Open Space Subvention Act; and preparing the status report.